IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5258 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHWIN MAHENDRABHAI VASAVADA - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR HJ NANAVATI for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/07/2006

ORAL JUDGMENT

1. The petitioner is a retired lecturer having retired after putting in 37 years of service. He retired from service on 14th June, 2003. Though there was no fault on the part of the petitioner his pension and gratuity

was not released immediately. The petitioner was actually paid gratuity and commuted pension amount of Rs.7,61,584/- by cheque dated 16/3/2004. Arrears of pension of the petitioner for the period between 14/6/2003 to 30/3/2004 was paid by cheque dated 2/4/2004 for an amount of Rs. 1,37,856/-. The case of the petitioner, therefore, is that he should receive interest on the delayed payment of pension and other post retiral benefits.

2. The respondents have filed the reply. So far as the entitlement of the petitioner to receive pensionary benefits is concerned there is no dispute raised in the reply with respect to the claim of the petitioner for interest on the delayed payments. It is stated that as per GR dated 20th December, 2002 if gratuity is not paid within three months from the date of superannuation interest is to be paid only beyond the said period. It is additionally stated that there is no provision for payment of interest on delayed pension.

3. Having perused the material on record and having heard the learned AGP it is clear that for no fault on the part of the petitioner his post retiral benefits were not released timely. It may be that there was some correspondence between the Government and the college, the same however cannot dis-entitle the petitioner from seeking interest since it is no where suggested by the respondents in the reply that the petitioner had any role to play in delay in settlement of his post retiral claims. If there was any delay on the part of the educational institutions to supply necessary details to the Government, it is for the Government to call for explanation and take suitable steps in this regard. The petitioner however cannot be denied interest simply on this ground.

4. The respondents themselves have stated that Government

Resolution provides for interest at the rate of 9% p.a. on the delayed payment of gratuity beyond the period of three months from the date of superannuation. Same formula can also be applied for delayed payment of pension. Even if there is no specific provision in the GR, I find the same to be just and reasonable yardstick to be complied with in the present case.

4.1 There is one clarification which is required to be made. The petitioner though will be entitled to receive interest on the delayed payment of gratuity and arrears of pension, cannot claim interest on delayed payment of commutation of pension. This is so since till the time the petitioner was permitted to commute his pension, he has received full component of pensionary benefits. He, therefore, cannot have interest on the delayed commuted value of pension.

5. In the result the petition is allowed partly by directing the respondents to pay 9% interest to the petitioner on the amount of gratuity for the period beginning three months from the date of superannuation of the petitioner till its actual payment. Similarly the petitioner shall also receive simple interest at the rate of 9% p.a. after three months of his superannuation till its actual payment on the delayed payment of pension.

6. With these directions, the petition is disposed of and allowed to the above limited extent. Rule is made absolute. No costs.

(Akil Kureshi, J.)

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